ORDINANCE 9, SERIES 1981

AN AMENDMENT TO ORDINANCE NO. 3, SERIES 1972

106920

AN ORDINANCE DEFINING NUISANCES; PROHIBITING SAME; PROVIDING FOR THEIR ABATEMENT; AND PROVIDING PENALTIES;

THE CITY OF ELGIN does ordain as follows:

Section 1. Definitions.

(1) Person. A natural person, firm, partnership, association, or corporation.

(2) Person in charge of property. An agent, occupant, lessee, contract purchaser, or other person having possession or control of property or the supervision of any construction project.

(3) Person responsible. The person responsible for abating a nuisance shall include:

(a) The owner.

(b) The person in charge of property as defined in subsection (2).

(c) The person who caused to come into or continue in existence a nuisance as defined in this ordinance or another ordinance of this city.

(4) Public place. A building, way, place, or accommodation, whether publicly or privately owned, open and available to the general public.

Animals

Section 2. Dangerous Animals.

(1) No owner or person in charge of an animal which is dangerous to the public health or safety shall allow the animal to be exposed in public.

(2) A dangerous animal exposed in public may be taken into custody by the police and disposed of in accordance with the procedures provided for by ordiance for the impoundment and disposition of dogs, except that before the animal is released by the city, the municipal judge must find that proper precautions will be taken to insure the public health and safety.

(3) A dangerous animal running at large, which because of fierceness of disposition or diseased condition is too hazardous to apprehend may be destroyed by a peace officer or by a person acting in defense of himself, his family, or another person.

Section 3. Livestock and Poultry.

(1) No owner or person in charge of property shall allow a domestic animal, including livestock and poultry, to run at large within the corporate limits of the city or to be within a park owned by the city.

(2) It shall be unlawful for any owner or person, firm, or corporation having control of a horse, cow, mule, sheep, goat, rabbit or any other like domestic animal or a fowl or bird to permit the animal or fowl to trespass upon private property within the City of Elgin.

(3) Any horse, cow, mule, sheep, goat, rabbit or other like domestic animal or a fowl or bird shall be properly caged or housed, and maintained in a sanitary condition at all times. All animal or poultry grain foods shall be stored in metal or other rodent-

proof receptacles. All accumulations of manure or bedding materials soiled by animal wastes in or about every stable, corral, or enclosure where an animal is kept shall be collected at least once each week and immediately deposited in fly-tight containers and disposed of in such a manner to eliminate fly breeding and nuisance conditions.

Section 4. Removal of Carcasses. No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than 24 hours.

Nuisances Affecting Public Health

Section 5. Nuisances Affecting Public Health. No owner or person in charge of property shall cause or permit on such property any nuisance affecting public health, nor shall any person cause on any property, public or private, any nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in this ordinance.

(1) Debris. An accumulation of decomposed animal or vegetable matter, garbage, rubbish, manure, offal, ashes, discarded containers, waste, paper, debris, trash, hay, grass, straw, weeds, litter, or other refuse matter or substance which by itself or in conjunction with other substances is deleterious to public health or comfort, or is unsightly, or creates an offensive odor.

(2) Stagnant water. An accumulation of stagnant or impure water which affords or might afford a breeding place for mosquitoes or other insects.

(3) Noxious weeds. A growth of Russian thistle, Canadian thistle, Chinese thistle, white mustard, cocklebur, silver saltbush, fox tail, or any other noxious weed, and all grass over 10 inches in height.

(4) Animal carcasses. The deposition of an animal carcass or part thereof, or any excrement or sewage, or industrial waste, or any putrid, nauseous, decaying deleterious, offensive, or dangerous substance in a stream, well, spring, brook, ditch, pond, river or other inland waters within the city, or the placing of such substances in such position that high water or natural seepage will carry the same into such waters.

(5) Privies. An open vault or privy except those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations.

(6) Surface drainage. Drainage of liquid wastes from private premises.

(7) Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.

(8) Food. Decayed or unwholesome food which is offered for human consumption.

(9) Odors. Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.

(10) Slaughterhouses. A pigsty, slaughterhouse, or tannery.

(11) A barn, stable, corral, pen, chicken coop, rabit hutch, or other place where animals are caged or housed which is in an unsanitary condition or creates a noisome or offensive odor.

(12) Water. The suffrance or allowance by the owner or person in charge of property that water from a ditch, canal, flume, reservoir pipe line, or conduit above or below ground should leak, seep, flow, overflow, run back or through, or escape or run upon, over

or under any premises, public street, alley, sidewalk, or other public property, which would endanger the public health, safety, welfare, or convenience.

Nuisances Affecting Public Safety

Section 6. Abandoned Refrigerators. No person shall leave in any place accessible to children an abandoned or discarded ice box, refrigerator, or similar container without first removing the door.

Section 7. Attractive Nuisances.

(1) No owner or person in charge of property shall permit thereon:

(a) Unguarded machinery, equipment, or other devices which are attractive, dangerous, and accessible to children.

(b) Lumber, logs, or pilings placed or stored in a manner so as to be attractive, dangerous, and accessible to children.

(c) An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children.

(2) This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

Section 8. Dangerous Excavations and Dangerous Buildings.

(1) Dangerous Excavations:

(a) No owner or person in charge of property shall allow an excavation to remain unguarded by suitable barriers.

(b) In addition to the barriers required by subsection (a) of this section, excavations shall be marked by warning lights during the hours of darkness.

(c) An obstruction on a street, sidewalk, public way, or pathway commonly used by the public shall be marked by warning lights during the hours of darkness. It shall be the responsibility of the person creating, maintaining, or in charge of such obstruction to insure the installation and operation of the warning lights.

(2) Dangerous Buildings:

(a) No owner of property shall allow to remain thereon any building or structure which is or threatens to be a public nuisance, dangerous to the health, morals, safety, or general welfare of the people of the City of Elgin, Oregon, or which might tend to constitute a fire menace.

(b) If an owner of a dangerous building is directed, in accordance with the provisions of this ordinance, to abate this nuisance by demolishing the dangerous building, the demolition shall include the removal of the debris resulting from the process of demolition and the premises on which the building is located shall, after demolition, be left clean, neat, sanitary, orderly and safe. A building shall not be considered to have been demolished until such debris shall have been removed and the premises left in the condition in this paragraph stated.

Section 9. Snow and Ice Removal.

(1) No owner or person in charge of property shall allow snow to remain on the sidewalk abutting his property for a period longer than the first six hours of daylight after

the snow has fallen.

(2) No owner or person in charge of property shall allow ice to remain on the abutting sidewalk for more than two hours of daylight after the ice has formed unless covered with ash, sand, or other suitable materials.

(3) No person shall place or deposit snow, except snow removed from public sidewalks, on any parking strip or street.

Section 10. Trees.

(1) No owner or person in charge of abutting property shall allow any brush, bushes, trees, limbs, shrubbery, flowers, or other growth, whether grown for food, fuel, shade, or ornamentation, to project over a sidewalk at an elevation of less than 8 feet above the level of the sidewalk or over a street at an elevation of less than 13 feet 6 inches above the level of the street.

(2) No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

Section 11. Fences.

(1) No owner or person in charge of property shall construct or maintain a barbed-wire fence along a sidewalk or public way.

(2) No owner or person in charge of property shall construct, maintain, or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

Section 12. Unenumerated Nuisances.

(1) In addition to the acts and conditions specifically enumerated in this ordinance, any condition, thing, substance, or activity which is detrimental to, injurious to, or constitutes a danger to the public health, safety, or welfare is declared to be a nuisance and is subject to the abatement procedures set forth in this ordinance.

(2) A condition, thing, substance, or activity declared to be a nuisance by another ordinance of this city is subject to the abatement procedures of this ordinance if no abatement procedures are provided by such ordinance.

Abatement Procedure

Section 13. Procedures.

(1) If the city council is satisfied that a nuisance exists, it shall cause a notice to be posted on the premises or at the site of the nuisance directing the person responsible to abate the nuisance.

(2) At the time of posting, the city recorder shall cause a copy of the notice to be forwarded by certified mail, postage pre-paid, to the person responsible at his last know address.

(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, on which the nuisance exists.

(b) A direction to abate the nuisance within 10 days from the date of the notice.

(c) A description of the nuisance.

(d) A statement that unless the nuisance is removed, the city may abate the nuisances; and the cost of abatement charged to the person responsible.

(e) A statement that the person responsible may protest the order to abate by giving notice to the city recorder within 10 days from the date of the notice.

(4) Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting respectively.

(5) An error in the name or address of the person responsible shall not make the notice void and in such case the posted notice shall be sufficient.

Section 14. Abatement by the Person Responsible.

(1) Within 10 days after the posting and mailing of such notice as provided in Section 13, the person responsible shall remove the nuisance or show that no nuisance exists.

(2) A person responsible protesting that no nuisance exists shall file with the city recorder a written statement which shall specify the basis for so protesting.

(3) The statement shall be referred to the city council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the council, and the council shall reconsider the matter and once again determine whether or not a nuisance in fact exists, and the determination shall be entered in the official minutes of the council.

(4) If after reconsideration, the council once again concludes that a nuisance does in fact exist, the person responsible shall, within 10 days after the council's determination abate the nuisance.

Section 15. Abatement by the City

(1) If, within the time allowed, the nuisance has not been abated by the person responsible, the council may cause the nuisance to be abated.

(2) The person or persons selected by the council to abate the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of the nuisance.

(3) The city recorder shall keep an accurate record of the expenses incurred by the city in physically abating the nuisance and shall include therein a charge of $10.00 or ten per cent (10%) of those expenses (whichever is the greater) for administrative overhead.

Section 16. Joint Responsibility. If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the cost incurred by the city in abating the nuisance.

Section 17. Assessment of Costs

(1) The city recorder, by registered or certified mail, postage pre-paid, shall forward to the person responsible a notice stating:

(a) The total costs of abatement including the administrative overhead.

(b) That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.

(c) That if the person responsible objects to the cost of the abatement as indicated, he may file a notice of objection with the city recorder not more than 10 days from the date of the notice.

(2) Upon the expiration of 10 days after the date of the notice, the city council in the regular course of business shall hear and determine the objections to the cost assessed.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as stated or as determined b y the city council shall be made by resolution and shall thereupon be entered in the docket of city liens; and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

(4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 6 per cent per annum. The interest shall commence to run from date of the entry of the lien in the lien docket.

(5) An error in the name of the person responsible shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

General

Section 18. Summary Abatement. The procedure provided by this ordinance is not exclusive, but is in addition to the procedure provided by other ordinances, and the health officer, the chief of the fire department, the fire marshall, the chief of police, or the city recorder may proceed summarily to abate a health or other nuisances which unmistakabley exists and which imminently endangers human life or property.

Section 19. Penalties. A person violating a provision of this ordinance or an order issued under authority of this ordinance shall, upon conviction, be fined an amount not to exceed $500.00.

Section 20. Separate Violations.

(1) Each day's violation of a provision of this ordinance constitues a separate offense.

(2) The abatement of a nuisance is not a penalty for violating this ordinance but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 10 days of the date of notice to abate, or if a written protest has been filed, then abatement within 10 days of city council determination that a nuisance exists, will excuse the person responsible from the imposition of any fine under Section 19 of this ordinance.

Section 211 Severability. The sections and subsections of this ordiance are severable . The invlidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

PASSED and ADOPTED this 8th day of December , 1981, by 7 council members voting therfor.

APPROVED this 8th day of December, 1981.

Mayor

106920

INDEXED

ATTEST:

City Recorder

STATE OF OREGON
County of Union } ss.

I certify that the within instrument of writing was received for record on the 18th day of NOV. 1981 at 8:30 o'clock A. M., and recorded on page in book Record of Deeds of said County.

SHIRLEY L. BOLIN, County Clerk

By Barbara C. Baker Deputy